

October 9, 2024

Hon. Magistrate Parker
United State District Court, S.D.N.Y.
500 Pearl Street, Courtroom 17D
New York, NY 10007

RE: *refusal to reasonably coordinate Mr. Glassner's deposition*
VIA: ECF

Your Honor,

I am the *pro-se* Plaintiff in the above-mentioned matter, hereinafter referred to in first person or as "Plaintiff." I am writing to respectfully ask the Court to enter a specific order for Mr. Glassner's deposition date. Unfortunately, I have no choice but to do so, as my efforts to schedule this are being met with obstruction and I do not wish the Court to have the impression that I have acted with anything but prompt diligence on this matter.

Your Honor entered the Order granting my request to depose Mr. Glassner, on Monday afternoon, September 30th.

Promptly, the very next morning, I emailed Mr. Gavenman (Defendants' counsel) to coordinate a date on which Mr. Gavenman was available (as it is counter-productive for me to select a date, if it turns out Mr. Gavenman is not available). On Tuesday, October 1st, at 8:35 am, I wrote:

Regarding Mr. Glassner's deposition, the Campaign has sometimes opted to represent third-party witnesses. If you are representing Mr. Glassner, please advise and we can coordinate dates more easily, including Mr. Glassner's availability. Either way, please let me know what dates you are available (or, if easier, what dates you are not available) in October.

Mr. Gavenman did not respond so I followed up again that evening at 7:34 pm, writing:

Hello Mr. Gavenman, Just following up on the below, for your dates of availability this month, as I cannot proceed to set the deposition on a date that you might not be available. Thank you

Later that evening, Mr. Gavenman filed his "Motion for Reconsideration" of Your Honor's order.

He *then* responded the next morning that he had filed a motion to reconsideration, and, in light of that, we should schedule the deposition for the latter half of the month.

I, in good faith, indulged Mr. Gavenman's request that the first half of October would not work, because he had decided to file a Motion to Reconsideration. That still left us the latter half on which to set the date. I therefore suggested three dates: **October 21, 21, or 23rd** (as the last week of October is cutting it too close to the October 31st deadline and I have a court hearing in the child support matter in FL that week).

Mr. Gavenman said he was unavailable on the 23rd, **so I added the 25th** to the suggested dates from which Mr. Glassner could choose.

I advised Mr. Gavenman that he could let me know on Monday (October 7th), to give him time to confer with Mr. Glassner over the weekend.

Yet, on Monday, October 7th, there was no response.

I followed up on Tuesday (yesterday) and again there was no response. Thus, circa 3:39 pm yesterday, I moved forward and filed the deposition Notice with the Pro-Se Intake Unit (for the clerk to sign the subpoena, as it appears I would need to serve Mr. Glassner after all) for **October 22nd at 9:30 am. I was careful to select a date on which Mr. Gavenman was available.**

Subsequent to Your Honor's denial yesterday of their Motion for Reconsideration, I (finally) received an email from Mr. Gavenman stating, "Mr. Glassner is available at 1 pm on October 22nd."

No depositions in this case have been scheduled to commence in the afternoon, nor is that customary. All depositions in this case (by either side) have been done in the morning. I am not available in the afternoons as that would require me to take the deposition while my son is home from school, which is nearly impossible.

As the party taking the deposition, I am generally permitted to set the date and time.

I explained I was not available at 1 pm but was fine with the 22nd, and stated 9:30 am would be the start-time. This is the response I received this morning:

*Unfortunately, Mr. Glassner is not available until 1pm on October 22, so 9:30am on **October 22 does not work. October 25 [also] does not work** for him.*
(emphasis added)

I then replied and suggested the morning of October 21st, and I would even move around an appointment I have that day.

The response? Mr. Glassner is **not available on the 21st**, either.

Thus, **not one of the four dates I offered -- October 21st, 22nd, 23rd, or 25th -- work for Mr. Glassner.** I am happy to accommodate a deponent's schedule within reason – e.g., if Mr. Glassner had a medical appointment. But Court-ordered depositions take priority, absent any such superseding priority. They have not even explained why Mr. Glassner is repeatedly 'unavailable.'

Because there is a clear deadline, I have no choice but to respectfully seek the assistance of the Court, in enforcing its own Order, and I ask that the Court enter an Order for the deposition to take place as noticed, for **October 22nd at 9:30 am.**

Respectfully and humbly submitted,
s/ Arlene Delgado
Plaintiff, *pro-se*